



**Texas Department of Insurance**  
**Division of Workers' Compensation**  
Medical Fee Dispute Resolution, MS-48  
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1609

## MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

### PART I: GENERAL INFORMATION

Requestor Name and Address:  FONDREN ORTHOPEDIC GP, LLP 7401 SOUTH MAIN HOUSTON, TX 77030-4509	MFDR Tracking #: M4-11-1148-01
	DWC Claim #:
	Injured Employee:
Respondent Name and Box #:  HUMBLE ISD Box #: 47	Date of Injury:
	Employer Name:
	Insurance Carrier #:

### PART II: REQUESTOR'S POSITION SUMMARY

**Requestor's Position Summary from Table of Disputed Services:** "Carrier recvd clm on 6/21/10 then requested authorization was provided and clm denied timely filing but it was recvd within the proper time."

**Amount in Dispute:** \$643.18

### PART III: RESPONDENT'S POSITION SUMMARY

**Respondent's Position Summary:** "The Carrier has reviewed the information submitted for medical dispute resolution and the Carrier's position remains that the complete bills for the dates of service were not submitted within 95 days after the date of service as required by Section 408.027(a) of the Act. Pursuant to the attached documentation, the original bills that were submitted on different dates for the various date of service at issue were not complete when initially submitted for reimbursement. The bills lacked the Prior Authorization Number and the Carrier could not process the bills without said number. The bills were returned to the provider for completion on various dates including April 19, 2010 and June 28, 2010. The provider did not provide the completed bills for all the dates of service at issue until July 15, 2010. The receipt date of the re-bills on July 15, 2010 was 112 days after the date of service of March 23, 2010, 106 days after date of service March 29, 2010, 103 days after date of service April 1, 2010 and 97 days after date of service April 7, 2010. The supporting case law, which is attached to this response, provides that there is no provision under the Act or DWC rules that would allow resubmission of an improperly submitted bill after the 95 day time period has expired. As such, the Carrier properly denied the bills at issue in this matter when they were received after the 95 day time period had expired."

**Response Submitted by:** Thornton, Biechlin, Segrato, Reynolds & Guerra, L.C., 912 S. Capital of Texas Highway, Ste 300, Austin, TX 78746-5242

### PART IV: SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Calculations	Amount in Dispute	Amount Due
03/23/2010	97110	N/A	\$643.18	\$0.00
03/29/2010	97110, 97140	N/A		
04/01/2010	97110	N/A		
04/07/2010	97110, 97140	N/A		
			<b>Total Due:</b>	<b>\$0.00</b>

### PART V: FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 of the Texas Workers' Compensation Act, and pursuant to all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

#### Background

1. 28 Tex. Admin. Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.

2. 28 Tex. Admin. Code §133.20 sets out the procedures for health care providers to submit workers' compensation medical bills for reimbursement.
3. 28 Tex. Admin. Code §133.2 states the definitions for words and terms used in Chapter 133.
4. 28 Tex. Admin. Code §133.10 sets out the procedures for required billing forms/formats to be used by a healthcare provider.
5. 28 Tex. Admin. Code §134.202 sets out the reimbursement guidelines for professional medical services.
6. 28 Tex. Admin. Code §102.4 sets out the rules for Non-Commission Communications.
7. Texas Labor Code §408.027 sets out the rules for timely submission of a claim by a health care provider.
8. Texas Labor Code §408.0272 sets out the rules for certain exceptions for untimely submission of a claim by a health care provider.
9. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated 07/28/2010:

- 45- Charges exceed your contracted/legislated fee arrangement.
- 86- Payment adjusted because coverage/program guidelines were not met or were exceeded.
- 1VN- FHN Contract status indicator 01 – Contracted provider (111-001) ANSI-45
- 2FS- "Based on Fee schedule guidelines, bills submitted after the 95<sup>th</sup> day after the date of service are disallowed." (663-022) ANSI-B6

Explanation of benefits dated 10/21/2010:

- 111-001 Coventry Contracts status indicator 01-Contracted Provider.
- 193- Original payment decision is being maintained. Upon review, it was determined that this claim was processed properly.
- 45- Charge exceeds fee schedule/maximum allowable or contracted/legislated fee arrangement.(Use Group Codes PR or CO depending upon liability).
- 887-005- The time for filing has expired. \$0.00
- 900- Based on further review, no additional allowance is warranted.
- W1- Workers Compensation State Fee Schedule Adjustment. \$0.00

### **Issues**

1. Is the claim adjustment code 45 supported?
2. Did the requestor submit the medical bill for the services in dispute timely and in accordance with 28 Tex. Admin. Code §133.20?
3. Did the requestor submit documentation to support the disputed bills were submitted timely in accordance with Texas Labor Code, Section §408.027 and §102.4?
4. Is the requestor entitled to reimbursement?

### **Findings**

1. According to the explanation of benefits (EOBs), the respondent raised denial code "45- Charges exceed your contracted/legislated fee arrangement" as a defense on the original EOB and maintained that defense as one of the reasons for denial of payment as a result of reconsideration. On 02/23/2011 the Division requested documentation from the Respondent to support those denial codes. No documentation was found to support denial code 45, for that reason, the disputed health care will be reviewed in accordance with Rule 133.20.
2. Pursuant to 28 Tex. Admin. Code §133.20(b) states in pertinent part "Except as provided in Labor code §408.0272...a health care provider shall not submit a medical bill later than the 95<sup>th</sup> day after the date the services are provided." No documentation was found to support that §408.0272 applies to the service in dispute, for that reason, the health care provider and requestor in this dispute were required to send the medical bill no later than 95 days after the service in dispute was provided. 28 Tex.Admin. Code §102.4(h) states "Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on: (1) the date received, if sent by fax, personal delivery, or electronic transmission or, (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus 5 days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday."
3. Review of the documentation submitted by the requestor finds a copy of the medical bill for DOS 03/23/10 dated 04/08/10 and stamped "Request for Reconsideration" and a bill for DOS 03/29/2010 dated 04/15/10. Also found two bills stamped "ReBill" for DOS 04/01/10 dated 04/15/10 and DOS 04/07/10 dated 05/06/10. Additionally, three notices from Broadspire, dated 04/19/10, 04/28/10 and 06/21/2010 were found. The notices state, "Need Prior Authorization number, unable to process bill without it" and "We are unable to process your bill without an authorization number."

Please correct this information or contact the employer for the proper information. Please resubmit to this office for processing.”

4. According to the documentation submitted by the Requestor, Box 23 did not include the preauthorization number as required per Version 2.0 of Texas Clean Claim and Electronic Medical Billing and Payment Workers' Compensation Companion Guides therefore, the medical bill was incomplete and returned by the Respondent.
5. Pursuant to 28 Tex. Admin. Code §133.20(g), "Health care providers may correct and resubmit as a new bill an incomplete bill that has been returned by the insurance carrier." The Division concludes that the insurance carrier properly returned the incomplete medical bill. No documentation was found to sufficiently support that the corrected bill was submitted to the insurance carrier within 95 days from the date the services were provided.
6. In accordance with Tex.Lab. Code Ann. §408.027, the health care provider and requestor in this medical fee dispute has forfeited the right to reimbursement due to untimely submission of the medical bill for the service in dispute.

### **Conclusion**

For the reasons stated above, the division finds that the requestor has failed to establish that reimbursement is due. As a result, the amount ordered is \$0.00

### **PART VI: ORDER**

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code §413.031, the Division has determined that the requestor is entitled to \$0.00 reimbursement for the disputed services.

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Medical Fee Dispute Resolution Officer

**08/16/2011**

\_\_\_\_\_  
Date

### **PART VII: YOUR RIGHT TO REQUEST AN APPEAL**

Either party to this medical fee dispute has a right to request an appeal. A request for hearing must be in writing and it must be received by the DWC Chief Clerk of Proceedings within **20** (twenty) days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with other required information specified in Division rule at 28 Tex. Admin. Code §148.3(c).

Under Texas Labor Code § 413.0311, your appeal will be handled by a Division hearing under Title 28 Texas Administrative Code Chapter 142 rules if the total amount sought does not exceed \$2,000. If the total amount sought exceeds \$2,000, a hearing will be conducted by the State Office of Administrative Hearings under Texas Labor Code §413.031.

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**